EXHIBIT 5

RETURN OF VERDICT DURING FIRST TRIAL

18:00

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA	(	NUMBER 3: 04-240-G
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VERSUS	(	
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HOLY LAND FOUNDATION, ET AL.	(	October 22, 2007

18:00

VOLUME 33
TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE A. JOE FISH

A P P E A R A N C E S:

For the Government: MR. JIM JACKS
MR. BARRY JONAS
MS. ELIZABETH SHAPIRO
MR. NATHAN GARRETT
Assistant United States Attorney
UNITED STATES DEPARTMENT OF JUSTICE
NORTHERN DISTRICT OF TEXAS
U.S. Courthouse
1100 Commerce Street
Dallas, Texas 75242
214/659-8600

18:00

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18:00

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18:00 Court Reporter: Cassidi L. Casey, CSR No. 1703
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Dallas, Texas 75242
214/354-3139

18:00 P R O C E E D I N G S:

THE COURT: Before we start, let me put this on the record that what we're meeting about is a note I saw for the first time this morning. Evidently, it was delivered before my arrival at the courthouse my Ms. Kristina Williams.

"Judge Fish, I am writing you to ask you some questions. One, are we going to be polled.

"Two, does undecided mean not guilty? If we are not going to be polled, I would like to give my statement with the court reporter there on some of the charges with the defendants. Will you please let me know? Thank you, Kristina Williams, Number 7(sic)."

MR. WESTFALL: I have not discussed this with
18:00 the government, but we would suggest a very simple answer to at least the not guilty question: Undecided does not mean not guilty. And then on the issue of polled, you know, poll, obviously is provided for. It's possible. It just seems like particularly that last paragraph there is a chance that something could go haywire unless her concerns are kind of addressed.

THE COURT: Counsel for the government have a view?

MR. JACKS: Judge, I believe I agree with Mr. Westfall in terms of how these questions could be

18:00 answered. I think also in addition one of the reasons that we sought to have this meeting with the Court is that there is still this note from Thursday, and just for clarification, as far as how the Court intended to proceed. I don't know if there is anymore to discuss with regard to that.

THE COURT: Well, actually there were two notes Thursday that I found. It had been reported to me by telephone by Judge Stickney that there was one note, but actually there were two notes. So which one are you referring to?

MR. JACKS: The first one that talks about their decisions and breaks it down by defendant. So I guess we were just kind of wanting clarification as to how the 18:00 Court intended or wanted to proceed. Obviously, it's a partial verdict. Before going into the courtroom, we were looking for any kind of guidance as far as how it wanted to proceed.

THE COURT: Well, what I was planning to do based on my knowledge of what occurred in my absence last week is to bring the jury into court, read these two notes into the record which were sealed by Judge Stickney I understand last week and to say that it was my understanding that the jury had reached a decision on at least some counts of the indictment and to ask for

18:00 affirmation of that from the foreperson and then to say that the partial verdict was received by Judge Stickney and placed under seal last week -- which I have not opened. It's in this envelope here. So I don't know what to expect when I open the envelope. But to open it and publish whatever verdict they have reached. And my ordinary practice is to poll the jury on my own motion after that. I don't know what we will get in light of Ms. Williams's note after we do that, but that's my normal practice.

MR. JACKS: Well, your Honor, does the Court intend to answer that note before doing that?

THE COURT: The note you are referring to?

MR. JACKS: The note from today, from Ms.
18:00 Williams.

THE COURT: Well, I can if you want me to. I'm not sure how you want me to do that, whether to bring her back from the juryroom into my office or talk to her individually or send her a note directed to her or what. This is so irregular to have a note other than the foreperson, I'm not sure of the proper procedure.

MR. WESTFALL: The entire panel I suppose could be told what the effect of an undecided verdict is; it's not "not guilty." And then you can tell them your regular practice in terms of being polled. That might take care of it.

THE COURT: What would be the preamble to my telling them that? Do you think I should read the note to the jury?

MS. CADDEDU: I don't see that you need to read the notes.

MR. WESTFALL: In the record before the verdict is read, it might create chaos because you can unseal it after the verdict.

MS. HOLLANDER: There were other notes that I thought your Honor was going to unseal, all of them after the verdict. What if you just sent a note back?

THE COURT: One reason I was thinking about publishing these notes which have been under seal is to explain to the press and any members of the public who were here why we were receiving a partial verdict because the jury does say in one of these notes that they don't think further deliberations would be productive.

MR. JACKS: Judge, I would propose that you just answer this note from today from Ms. Williams in writing and address it to the jury as a whole saying one of your number has asked the following questions and these are the answers to those questions.

Partly, rather than bringing them in -- bringing them in and doing it in open court. It gives some privacy

18:00 to Ms. Williams that might be appropriate. But then the question becomes okay after you answer that, what affect does that have? Does it change her vote? Where do we go from there? I guess.

MS. HOLLANDER: We find out when we poll them. If the Judge were to answer the question, "No, undecided does not mean not guilty, and yes, you will be polled," then I guess we find out when they are polled.

MR. JACKS: And listen to her prepared statement.

THE COURT: If I answer in writing to this note from Ms. Williams, as you suggest, that's going to require some delay. I see it's ten o'clock now when everybody was supposed to be here, and Ms. Piwoni, my assistant, is on

18:00 leave this week, and so I have to find somebody to type a response to this. I want to advise you of that.

MR. WESTFALL: Couldn't they just be told as a group, your Honor?

THE COURT: That's fine with me. I'm willing to be guided by your thoughts on that.

MR. WESTFALL: You said your normal practice is to poll the jury. That would answer what seems to be her biggest question, and to the extent there are undecided counts, the effect of that I think could be easily explained.

18:00

MS. HOLLANDER: That might be easier, especially since we don't have to wait for a typist.

MR. GARRETT: So yes, you will be polled, and the second one, yes, undecided does not mean not guilty.

MS. MORENO: And get out of the room, Judge.

THE COURT: Good advice.

(Jury in)

THE COURT: Good morning, Ladies and Gentlemen. Welcome back to the courtroom. It's been a while since we have all been together. For the parties and the jury, they are aware I think that I was out of town last week. The members of the public who are here or members of the press may not be aware of that fact. I wanted to review what I understand happened last week in my absence under

18:00

the supervision of Magistrate Judge Stickney of our Court. On Thursday of last week which was the 18th of October, we received two notes from the jury. The first says "10-18-07, Concerning the verdict forms, we have two defendants on whom we have reached unanimous decisions on some of the counts. Do I sign and date even though all counts are not decided?"

And then someone has written in -- I'm not sure who -- the word "yes" below that. It seems to be a different handwriting than the question. And then below that, "Do I sign the verdict forms where no unanimous

18:00 decisions were reached?"

And then again the word "yes" is written in, although it seems to be in a different hand, and the note is signed by the foreperson.

And then the second note is also dated 10-18-07. It reads "After extensive deliberation, review of the admitted exhibits and consultation of the Court's instructions to the jury, we, the jury, have reached the following decisions:

"Unanimous decisions on all counts on one defendant. Unanimous decisions on some of the counts on two defendants. We are unable to reach unanimous decisions on any of the counts on the three remaining defendants. We do not believe that any further 18:00 deliberations would lead to any further unanimous decisions on any of the undecided counts on any of the defendants." This note is also a signed by the foreperson.

And then I have an envelope which was signed and sealed by Judge Stickney which apparently contains the partial verdicts referred to in the notes. Also, this morning, I received a note from a member of the jury which I will read in part. It's dated 10-22-07. It says, "Judge Fish, I am writing you to ask you some questions. One, are we going to be polled? Two, does undecided mean

18:00 not guilty?"

The answers to those questions are, yes, you will be polled after I have published the jury's partial verdict, and the second question "does undecided mean not guilty," the answer to that is undecided does not mean not guilty.

With that background, I am going to open the envelope that Judge Stickney sealed last week containing the partial verdict that was referred to in these notes.

The first set of pages here is the verdict form relating to the Defendant Holy Land Foundation for Relief and Development, and it is signed by the foreperson, but no verdicts are recorded in any of the spaces.

The second set of papers is the verdict form for 18:00 the Defendant Shukri Abu Baker, and again it is signed by the foreperson, but there are no entries in any of the blanks.

The next set of papers is the verdict form for the Defendant El Mezain, and there is no entry for him on Count 1 of the indictment. However, as to Count 2 of the indictment, the foreperson has recorded that the verdict of the jury is not guilty.

On Count 3 of the indictment, similarly the foreperson has recorded a not guilty verdict.

On Count 4 of the indictment, the foreperson has

18:00 recorded a not guilty verdict.

On Count 5 of the indictment, the foreperson has recorded a not guilty verdict.

On Count 6, the foreperson has recorded a not guilty verdict.

On Count 7 of the indictment, the foreperson has recorded a not guilty verdict.

On Count 8, the foreperson has recorded a not guilty verdict.

On Count 9, the foreperson has recorded a not guilty verdict.

On Count 10, the foreperson has recorded a not guilty verdict.

On Count 11, the foreperson has recorded a not

18:00 guilty verdict.

On Count 12, the foreperson has recorded a not guilty verdict.

On Count 13, the foreperson has recorded a not guilty verdict.

On Count 14, the foreperson has recorded a not guilty verdict.

On Count 15, the foreperson has recorded a not guilty verdict.

On Count 16, the foreperson has recorded a not guilty verdict.

18:00 On Count 17 the foreperson has recorded a not guilty verdict.

On Count 18, the foreperson has recorded a not guilty verdict.

On Count 19, the foreperson has recorded a not guilty verdict.

In Count 20, the foreperson has recorded a not guilty verdict.

On Count 21, the foreperson has recorded a not guilty verdict.

On Count 22, the foreperson has recorded a not guilty verdict.

On Count 23, the foreperson has recorded a not guilty verdict.

18:00 On Count 24, the foreperson has recorded a not guilty verdict.

On Count 25, the foreperson has recorded a not guilty verdict.

On Count 26, the foreperson has recorded a not guilty verdict.

On Count 27, the foreperson has recorded a not guilty verdict.

On Count 28, the foreperson has recorded a not guilty verdict.

On Count 29, the foreperson has recorded a not

18:00 guilty verdict.

On Count 30, the foreperson has recorded a not guilty verdict.

And on Count 31, the foreperson has recorded a not guilty verdict.

And on Count 32, the foreperson has recorded a not guilty verdict.

The verdict form on Mr. El Mezain is dated September 18, 2007 (sic) and signed by the foreperson.

The next set of papers is the verdict form for the Defendant Ghassan Elashi, and although it is signed by the foreperson and dated September 18 (sic) there are no entries in any of the blanks.

The next set of papers is the verdict form for 18:00 the Defendant Mufid Abdulqader. The foreperson has recorded a not guilty verdict as to Mr. Mufid Abdulqader on Counts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32 of the indictment. And the verdict form is signed by the foreperson and dated October 1st, 2007.

The next set of papers is the verdict form for the Defendant AbdulRahmin Odeh. It is signed by the foreperson and dated September 18, 2007, although I wonder if that should be October 18. And the foreperson has recorded a not guilty verdict on Count 2. There is no

18:00 entry for Count 1. The foreperson has recorded a not guilty verdict for Counts 3, 4, 5, 6, 7, 8, 9, 10. There is no entry for Count 11. The foreperson has recorded a not guilty verdict for Counts 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, and 32.

Now, Ladies and Gentlemen of the Jury, as I told you in response to the note I received this morning from a member of the jury, it is my intention to poll each of you to tell me if what I have just read constitutes your verdict. I will begin -- And I am going to only address you as Juror Number such and such in an effort to protect your anonymity since there has been some media interest. Madam Foreperson, is this your verdict?

FOREPERSON: Yes.

18:00 THE COURT: Juror Number 2, is this your verdict?

JUROR NUMBER 2: No.

THE COURT: Juror Number 3, is this your verdict?

JUROR NUMBER 3: Yes.

THE COURT: Juror Number 4, this your verdict?

JUROR NUMBER 4: Yes.

THE COURT: Juror Number 5?

JUROR NUMBER 5: Yes.

THE COURT: Juror Number 6?

18:00 JUROR NUMBER 6: No.

THE COURT: Juror Number 7, is this your verdict?

JUROR NUMBER 7: Yes.

THE COURT: Juror Number 8, is this your verdict?

JUROR NUMBER 8: Yes.

THE COURT: Juror Number 9, is this your verdict?

JUROR NUMBER 9: Yes.

THE COURT: Juror Number 10, is this your verdict?

JUROR NUMBER 10: No.

THE COURT: Juror Number 11, is this your

18:00 verdict?

JUROR NUMBER 11: Yes.

THE COURT: Juror Number 12, is this your verdict?

JUROR NUMBER 12: Yes.

THE COURT: Ladies and Gentlemen, as I told you in my initial instructions, your verdict must be unanimous, and it is apparent to me from the answers of three members of the jury in response to the question that the verdicts that I read earlier do not represent the unanimous view of the juror. So I guess I need to

18:00 inquire, Madam Foreperson, whether there is the possibility that further deliberations might produce a unanimous decision on any of these counts.

FOREPERSON: Your Honor, when we voted, there was no issue in the vote, and no one spoke up any differently throughout this whole process. Now, when we spoke up, we deliberated. There was arguments, and we went through everything that we thought we needed to do. At that certain point when the vote was done, there was no speaking up saying any differently. So I'm not understanding -- I don't understand where it's coming from, and I'm not sure about the further deliberations because that two -- All twelve made that decision that we were at the end of the deliberations.

18:00 THE COURT: Well, let me ask you to do this. Let me ask you to retire to the juryroom to discuss this matter to see whether the jury believes that further deliberations might be productive in reaching a further decision. And once you have talked about that, I'll ask you to send me a note reflecting what your consensus on that is, and we'll wait for your decision.

(Jury out)

THE COURT: Ladies and Gentlemen, we'll be in recess while the jury caucuses on this matter about whether further deliberation might be productive, and once

18:00 I hear from them, I'll communicate with counsel for the parties.

THE COURT: I have just been handed a note by Mr. Kiblinger. I'll read it. "10-22-07, "Eleven out of twelve jurors have agreed that further deliberations will not change the results." Signed by Ms. Lopez-Rogina as foreperson. If you would like, I will make copies of this and make them available.

MR. DRATEL: Your Honor, that note, I'm not sure what it means. But it occurred to us -- thinking about what occurred in the courtroom -- that there is a possibility that because of perhaps the way the jurors misperceived the question on polling that they may have been talking about undecided counts as to whether this is 18:00 their verdict because they obviously disagreed on undecided counts, and the verdict for not guilty would say, no, that's not my vote if they had voted on decided counts. We don't know whether the unanimous counts are in contest or it's the undecided counts. This note doesn't tell us that answer. It could be that eleven of twelve would say we can reach on the others, but I'm not going further. I'm where I am, but not further on the undecided counts. We don't know the answer to that question. So I don't know whether that applies to the entirety of the verdicts or just the counts that they couldn't reach

18:00 verdicts on. I think further exploration would assist us perhaps in getting some closure in this case. Perhaps also polling on each defendant might work to that effect as well. They may not be in dispute about Mr. Abdulqader.

MR. JACKS: Well, your Honor, that's just speculation, and I don't think we can sit here and try to figure out what they meant. You've got three of the twelve that said it's not their verdict, and to sit there and try to decipher what they meant by that, I don't really think that if the answer doesn't come back the way somebody expected it -- You almost are going to end up having a dialogue with them trying to figure out what they are thinking. And even at that, now it says that eleven out of twelve don't think any further deliberations would 18:00 be of benefit. I just think that a mistrial is inevitable, and I don't know that you could ever unravel this thing where it makes sense.

MR. DRATEL: Back to the notes. On the undecided counts or decided counts, if it's only undecided we have a verdict that has integrity. If it's undecided, we have an issue. And as to the defendants, what if they are undecided on a question as to Mr. El Mezain but they are as to Mr. Mufid Abdulqader? He's already acquitted --

MS. CADDEDU: Your Honor, I would make a specific request to poll jurors as to my client. I think

18:00 clearly he has the most to lose from mistrying his case, and I think that at least is warranted based on the facts.

THE COURT: Well, it seems to me that the polling of the jury did probably produce an ambiguous result, and that's really a separate question in my mind from whether further deliberations would be productive, and I think the overwhelming indication there is that further deliberation would not be productive which is my sense, too. I have given the jury an Allen charge two weeks ago, and to do it again, I think would probably be futile. I don't know that I need the necessity of polling the jury with respect to all of the defendants because there were some as to whom there were no answers recorded. I think that seems to be fairly clear to me. But as to 18:00 the ones that some verdicts were recorded, I think it might be worthwhile to go back through and just clarify with the jury whether their answers meant what I initially thought, whether everybody agreed with those or maybe they were referring to the undecided counts when they said this was not their verdict.

MR. DRATEL: I think we all agree, as we did on Thursday, that we don't think further deliberation is fruitful. We just want to see whether we have an actual verdict as to some of the defendants.

MS. HOLLANDER: The way your Honor seeks to

18:00 proceed from my prospective makes sense.

THE COURT: Well, to spell it out again, to be sure there was no misunderstanding as to those defendants from whom we received some verdicts, I will poll the jury individually about those. As to others for who there were no verdicts recorded, I'm not going to question them about those.

MR. CLINE: Does your Honor intend to declare a mistrial as to those three defendants?

THE COURT: I think that is the only choice I have.

MR. CLINE: We agree. I wanted to be clear.

MR. JACKS: Your Honor, will you do it count by count, as to Count 2 for Mr. El Mezain or will you do it in groups or do you know?

18:00

THE COURT: I guess I hadn't gotten that far in my thinking. The easiest I guess as to Ms. Cadeddu's client since he had a verdict recorded on all counts, and as to the others I hadn't really thought about that.

MR. JACKS: Thank you, your Honor.

(Jury in)

THE COURT: I'm sorry for the false start, Ladies and Gentlemen. But Ms. Casey told me that counsel for the government wanted to put something on the record.

MR. JACKS: Your Honor, as we were filing out

18:00 about two minutes ago, we learned from Ms. Casey that on Thursday after the verdict came out that Ms. Williams, Juror 7 I believe -- I'm not sure if I have the number correct -- approached Magistrate Stickney and informed him this is not her verdict, that she felt pressure. I think when you take that statement in conjunction with our note this morning, in conjunction with what Mr. Holmes said about Juror William Neal, I think, your Honor -- I think you need to speak to Ms. Williams yourself and find out if she feels pressured. Maybe away from the jury she can give you an honest answer.

THE COURT: I'm not really inclined to do that. What we have said is consistent with my understanding of the conversation I had with Judge Stickney on Thursday 18:00 afternoon. He told me at that time as best I can remember -- I don't know if he identified Ms. Williams to me by name but that a female member of the jury was almost in tears or was in tears and very emotional and asked if the jury would be polled, and he told her yes, and either he inferred or she said that she was under pressure from other jurors, but I don't think I knew until this morning that was Ms. Williams.

MR. WESTFALL: I don't know if the Court noticed she was crying just now.

THE COURT: But I think that's inherent in this

18:00 process, that people are always under some peer pressure to reach a result, and so I don't know that I see it being productive to interview her or any other member of the jury individually.

MR. DRATEL: Thank you, your Honor.

(Jury in)

THE COURT: Good morning, Ladies and Gentlemen. After the last recess, I received a few minutes ago another note from the jury foreperson which reads as follows: "10-22-07, Eleven out of twelve jurors have agreed that further deliberations will not change the results." And that note is signed by the foreperson. I think that I must necessarily accept the judgment of that number of jurors that further deliberations would not be 18:00 productive. However, before moving on, I would like to go back to the poll that I did of the jury this morning because I was afraid on reflection that may be there was some ambiguity in the question when I asked each member of the jury to tell me whether or not the results recorded by the foreperson represented their verdict. Obviously, there was some disagreement among the jury on some of these counts where no answer was recorded. I think that's reasonably clear. But on some of the defendants there were answers recorded, and I would like to go back to that part of our proceedings in the poll this morning. For

18:00 example, as to the Defendant Mufid Abdulqader, the foreperson recorded a not guilty verdict for Mr. Mufid Abdulqader on all counts in which he was accused in the superseding indictment. So I would like to focus on Mr. Mufid Abdulqader for just a moment and ask the three members of the jury who told me this morning that this does not represent their verdict -- I'd like to ask that question again, but before I do, let me say that I am not seeking to get you to change your answer, if that's not appropriate. I'm really only trying to understand your answer and see whether you meant that the verdicts that were recorded on these defendants, where there were verdicts, that that didn't represent your opinion or whether you were referring to many of the counts in the 18:00 indictment against some defendants were not answered at all and whether you were in disagreement with that. So I'm trying to understand your answer. I'm not necessarily seeking a different answer.

Juror Number 2, you told me no this morning. Do you disagree with the verdicts of not guilty respecting Mr. Mufid Abdulqader?

JUROR NUMBER 2: I agree with it.

THE COURT: Juror Number 6, do you disagree with the verdict regarding Mr. Mufid Abdulqader?

JUROR NUMBER 6: I don't agree with the verdicts

18:00 that are on that paper.

THE COURT: And Juror Number 10, do you disagree with the verdicts recorded?

JUROR NUMBER 10: I agree with them.

THE COURT: There were also partial verdicts rendered against some other defendants. Mr. Odeh.

Juror Number 2, do you disagree with the verdicts recorded on Mr. Odeh?

JUROR NUMBER 2: Yes, I do disagree with it.

THE COURT: And Juror Number 6, do you disagree with the verdicts recorded on the form related to Mr. Odeh?

JUROR NUMBER 6: Yes, I disagree with it.

JUROR NUMBER 10: I agree. I disagree on no
18:00 verdicts -- on not filling out verdicts on all. So you don't have to ask me anymore questions about that.

THE COURT: And I believe there was one other defendant on which we received a partial verdict, that being Mr. El Mezain.

Juror Number 2, do you disagree with the verdicts recorded on Mr. El Mezain?

JUROR NUMBER 2: No, I do not.

THE COURT: Juror 6, do you disagree with those verdicts?

JUROR NUMBER 6: I do not disagree.

18:00 THE COURT: On Mr. El Mezain, Juror Number 10, you said that you did not disagree with the verdicts?

JUROR NUMBER 10: I wanted it all verdicts.

THE COURT: Ladies and Gentlemen, as I said earlier, I respect the judgment you have reached that further deliberations will not produce unanimous agreement, and so you are I think at the end of your service in this case. It's been a while now since we had closing arguments, but my memory is that counsel for all the parties took the opportunity during that closing argument to thank you for your service in this case, and I would now like to take my opportunity to join them in thanking you for your service. It's been a long trial. I recognize there has been no doubt dislocation in every one 18:00 of your daily lives because of your service in this case. You have rendered a valuable service to your community and to your government by serving as jurors in this case. This is one of the few ways these days that individuals like yourselves can personally participate in the affairs of your government, and I think you should be proud of the service that you have rendered. I hope that we have made you as comfortable as possible during your time with us and that you have found this to be an educational experience.

The local rules of our Court provide that the

18:00 parties to this case or the lawyers or other representatives are not allowed to discuss this case with you unless they have my permission to do so, and so you should not discuss this case with any of those persons unless you hear from me beforehand that it's okay. Otherwise, it's up to you to decide now that your service is over whether you want to discuss this case with anyone and if so to what extent.

As I mentioned earlier this morning, there has been media interest in this case which is probably not surprising to you, and I have had some requests from members of the media to have the opportunity to visit with you about your service in this case. I have told them that is all right with me, but it is up to you to decide

18:00 whether you want to visit with them or not. So I wanted to tell you that the procedure I expect to follow is when you leave the courthouse today you will be given a list of the members of the media who have requested the opportunity to visit with you, and it will have their names and telephone numbers on there, and we will rely on you to take the initiative if you want to visit with any of them to make contact with them. I'm doing this in an effort to preserve your privacy and anonymity if you want that. However, if you want to speak to the media, you can do so by making a telephone call and talking with them.

18:00 I think as we were coming in the courtroom I was told by Mr. Kiblinger someone wanted to ask me a question. So I said I would give --

MS. WILLIAMS: It was me. I wanted to know if we have a question if we can ask while we're inside the Court. But no, I don't have a question. It was just if I had a question.

THE COURT: I would like to make the request that once you leave the courtroom if you feel so disposed to stay for a few minutes in the juryroom because I would like to come back and visit informally with the jurors about the case. On the other hand, if you don't want to participate in that, I will certainly understand. You have given us a lot of time already, and if you want to go

18:00 ahead and leave, I certainly understand your feelings.

Again, Ladies and Gentlemen, thank you for your service, and you may be excused from the courtroom at this pointed.

(Jury out)

THE COURT: Ladies and Gentlemen, I think the law gives me no choice but to declare a mistrial on all of the counts of the indictment on those defendants for whom no valid verdict was reached in this case, and that will be the Defendants Holy Land Foundation, Shukri Abu Baker, Ghassan Elashi, Mufid Abdulqader and Abdulrahmin Odeh.

18:00 And then as to the Defendant Mohamed El Mezain, I understood the three members of the jury this morning that dissented from the verdict actually did not dissent from the verdicts recorded on the verdict form relating to Mr. El Mezain. Those were Counts 2 through 32 of the indictment. So as to those counts of the indictment, I will adjudge Mr. El Mezain not guilty in accordance with the -- partial verdict of the jury and declare a mistrial as to Mr. El Mezain on Count 1 of the indictment.

Given the fact that a mistrial has been declared on most of the counts of the indictment against most of the defendants, that leaves the case in the same posture as it would be before this trial commenced. That is the government has the option of bringing this prosecution 18:00 again.

Mr. Jacks, do you know whether the government intends to bring these charges to another trial?

MR. JACKS: Yes, your Honor, my expectation is that we will.

THE COURT: Well, for the benefit of the parties and counsel -- and I may have told this to counsel already, but I intend to send the case to random reassignment among my colleagues if the case is to be tried again. So it will be presided over by a different judge the next time around. It has been my pleasure to

18:00 preside over this case, and I want to publically commend counsel for the excellent jobs they have each done in representing their respective clients.

It is ordinarily my practice when we receive a verdict to order the court reporter to take custody of the documentary and tangible exhibits which were received in evidence if those documents are eight and a half by eleven in size or smaller. However, if there is to be a retrial in this case -- She tells me she does until there is a transcript completed. So I will order that she take custody of the exhibits and tangible exhibits at this time. If there are documentary exhibits larger than eight and a half by eleven in size, I will order those be returned to custody of the counsel for the offering part to be held pending further order of this Court.

18:00

Is there anything else that we need to talk about while we're all together this morning?

MR. DRATEL: Your Honor, just a housekeeping in terms of if we could maybe get an order on the record for the Court permitting defendants to travel back to their home residences.

THE COURT: I really would prefer to defer that motion to Judge Stickney, who has handled the matters relating to release pending trial. I don't necessarily have any disagreement with that, but I'm more comfortable

18:00 having Judge Stickney handle it, given his familiarity with the conditions of their release.

MR. JACKS: Your Honor, in that the bulk of these charges are still unresolved, there is a question regarding the Court's gag order, and if that I guess still in place. I'm sure both sides have been bombarded with questions and requests from the media, and I want to find out what is the order of the Court.

THE COURT: Yes, my belief is that order is still in effect and will be unless and until the government decides not to prosecute this case further or until these charges are resolved after another trial.

If there is nothing else, court will be in recess at this time.

C E R T I F I C A T I O N

I, Cassidi L. Casey, certify that during the proceedings of the foregoing-styled and -numbered cause, I was the official reporter and took in stenotypy such proceedings and have transcribed the same as shown by the above and foregoing Pages 1 through 32 and that said transcript is true and correct.

I further certify that the transcript fees and format comply with those prescribed by the court and the Judicial Conference of the United States.

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CASSIDI L. CASEY
UNITED STATES DISTRICT REPORTER
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION